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Regn. No. KERBIL/2012/45073
dated 5-9-2012 with RNI

Reg. No. KL/TV(N)/634/2012-14

കേരള ഗസറ്റ് KERALA GAZETTE

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
PUBLISHED BY AUTHORITY

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PART IV

Private Advertisements and Miscellaneous Notifications

Phone No. 4097 2800167.

INSURANCE MEDICAL SERVICES DEPARTMENT

PROCEEDINGS OF THE DIRECTOR OF INSURANCE
MEDICAL SERVICES, THYCAUD, THIRUVANANTHAPURAM-14

Sub:—Estt.-IMS Dept.—Seniority List of L. D. Clerks and U. D. Clerks as on 1-4-1994—finalised—orders issued.

Read:—(1) GO. (Ms) 156/2011, LBR dated 13-9-2011.

- (2) This office proceedings of even No. dated 12-12-2011.
- (3) This office proceedings No. E2/22532/2011/DIMS dated 20-12-2011.
- (4) This Office letter of even No. dated 20-1-2012.
- (5) Judgment of Honourable Kerala Administrative Tribunal, Thiruvananthapuram in Cases TA 1683, 2449 and 6946 of 2012 and OA No. 523 of 2012.
- (6) G O. (Rt) No. 1813/2012, LBR dated 23-11-2012.
- (7) G O. (Ms.) 93/2013, LBR dated 24-7-2013.
- (8) This Office letter of even No. dated 10-9-2013.
- (9) Government letter No. 25397/F2/10/LBR dated 8-10-2013.

Order No. E2/16388/2011/DIMS dated 9-10-2013

The existing seniority list of ministerial staff of IMS Department was cancelled by the Government vide G. O. under reference 1st and directed the Director of Insurance Medical Services, Thiruvananthapuram to prepare a fresh seniority list and submit the same to Govt. for approval. Accordingly a revised provisional seniority list of L.D.Clerks and U. D. Clerks as on 1-4-1994 was prepared and published vide this office proceedings read as second and third paper respectively. Appeals were called for from the employees concerned and after examining and considering the appeals the revised final seniority list was prepared and submitted to the Government for approval vide reference 4th cited.

After examining the Seniority List, Government have issued certain communications regarding the inter district transfer and seniority position of Sri. Abraham Kollinal, Head Clerk, ESI Dispensary, Cheruvannoor and directed to assign seniority accordingly.

Meanwhile some aggrieved parties filed WPCs in the Hon'ble High Court against cancellation of seniority list by the Government and against seniority position assigned to Sri Hariharaprasad, T. K., Junior Superintendent, Office of the DIMS and the seniority position proposed by Government to Sri Abraham Kollinal. WPCs connected to this issue were transferred to the Hon'ble Kerala Administrative Tribunal. Three such Transferred Applications and one Original Application were finally heard on 13-2-2013 and passed orders on the same day.

The Hon'ble Kerala Administrative Tribunal observed that Government have ample powers to revise or cancel the list published by the Head of Department and hence accepted the action of Government in this regard. The Hon'ble Court has also noticed that the transfer given to Sri Hariharaprasad T. K. cannot be considered as inter district transfer hit by general rules and orders. His transfer is one ordered in the exigencies of service and hence contention of the petitioners was not accepted by the court.

But in the case of Sri Abraham Kollinal Hon'ble Court ordered that the communication issued by the Govt. regarding his seniority position shall be treated only as proposals and directed the Director of Insurance Medical Services to finalise the seniority list based on evidence and materials before him as per relevant rules and orders, uninfluenced by the Government views after giving an opportunity to file objections/representations by the applicants and by Sri Abraham Kollinal.

Apart from the communications mentioned in Para 2 regarding the seniority position, Government also have issued an order directing Director of Insurance Medical Services to provisionally promote Sri Abraham Kollinal vide Rule 31 (a) 1 as per reference 6 above. Since promotion under this rule necessitates promotion of his admitted seniors

also, this order could not be implemented as there was no valid seniority list. This position was reported to Government in time. This Government order was not seen referred anywhere in the Court verdict.

The seniority list submitted was approved by Government vide reference cited 7 above. Though the Hon'ble Kerala Administrative Tribunal Judgment is referred to in this order, direction regarding the proposed seniority position of Sri Abraham Kollinal is not specified. Hence a clarification regarding the seniority position to be assigned to this incumbent was sought for from Government vide reference 8 above.

In reply to this, as per letter read as 9th paper, Government have directed to comply with the orders of Hon'ble Kerala Administrative Tribunal based on evidence and materials and also abiding rules and orders. Government have also informed that the Director of Insurance Medical Services has the liberty to decide the matter independently uninfluenced by Government views.

At this juncture, the dispute in seniority exists only in the case of Sri Abraham Kollinal. The opportunity to file objection/representation as directed by Hon'ble Kerala Administrative Tribunal was given to the incumbents and the same was examined in detail with documentary evidence and relevant rules and orders. It is evident that Sri Abraham Kollinal had submitted a request for transfer from Palakkad to Kozhikode while he was working as L. D. Clerk. He was given this transfer and it is documented in the service book. Copy of the said transfer order is not traceable in the extend of time. Materials and circumstantial evidences show that this transfer was given in compliance of his request and this comes under inter district transfer which entails loss of seniority as envisaged in Kerala Service Rules. Hence his seniority can be assigned from the date of joining in the new district. Sri Abraham Kollinal could not produce any documents to prove that his transfer was made on administrative exigencies. Hence the seniority list prepared and submitted to Government vide reference 4th cited is in order and requires no change in his seniority position.

In these circumstances, seniority list of L. D. Clerks and U. D. Clerks as on 1-4-1994 duly approved by Government vide reference 7th cited is hereby ordered as finalised and the lists are appended here with for publication.

Copy of this order can be downloaded from the official website of Insurance Medical Services Department "www.ims.kerala.gov.in".

The orders of the Hon'ble Kerala Administrative Tribunal, Thiruvananthapuram in the Judgment read as 5th paper above is complied herewith.

DR. M. BEENATH,

*Director of Insurance
Medical Services.*

To

The Incumbents concerned

Copy To:

- (1) The Additional Chief Secretary, Labour and Rehabilitation (F) Dept. Thiruvananthapuram (with C/L)
- (2) The Registrar, Kerala Administrative Tribunal, Thiruvananthapuram (with C/L)
- (3) The Accountant General, Kerala, Thiruvananthapuram (with C/L)
- (4) JD/AO/FO/CA to DIMS
- (5) RDD, IMS, SZ, Kollam/CZ, Ernakulam/NZ, Kozhikode
- (6) The Deputy Director, Homoeo/Ayurveda
- (7) All Senior Superintendents/Junior Superintendents/Head Clerks of this office.
- (8) Website
- (9) File/Stock File/Spare